

**ASSEMBLY BILL**

**No. 2367**

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**Introduced by Assembly Member La Suer**

February 23, 2006

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An act to amend Section 25618 of the Business and Professions Code, to amend Sections 3510, 17419, and 17700 of the Financial Code, to amend Section 80174 of the Food and Agricultural Code, to amend Sections 1368, 3108, and 51018.7 of the Government Code, to amend Section 44209, 100895, and 116730 of the Health and Safety Code, to amend Section 227 of the Labor Code, to amend Sections 145 and 1672 of the Military and Veterans Code, to amend Section 8285 of the Public Utilities Code, to amend Sections 19542.3, 43606, 45955, and 46705 of the Revenue and Taxation Code, and to amend Section 13387 of the Water Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2367, as introduced, La Suer. Criminal penalties.

Existing law generally provides that a criminal offender shall, upon conviction, be subject to a determinate sentence, as specified. However, specified offenses relating to alcoholic beverage control, the price fixing of commodities, escrow agents, California desert native plants, oath or affirmations required of public officers and employees, the Elder California Pipeline Safety Act of 1981, vehicular air pollution control of used direct import vehicles, environmental laboratories, drinking water, employment regulation and supervision, military and veterans, the sale of horsemeat, public utilities, revenue and taxation, and water pollution provide for indeterminate sentences instead.

This bill would revise the above provisions providing for indeterminate sentences to make those sentences determinate, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25618 of the Business and Professions  
2 Code is amended to read:

3 25618. Every person convicted of a felony for a violation of  
4 any of the provisions of this division for which another  
5 punishment is not specifically provided for in this division shall  
6 be punished by a fine of not more than ten thousand dollars  
7 (\$10,000) or by imprisonment in the state ~~penitentiary for not~~  
8 ~~less than one year nor more than five years~~ *prison*, or by both  
9 ~~such~~ *that* fine and imprisonment.

10 SEC. 2. Section 3510 of the Financial Code is amended to  
11 read:

12 3510. It shall be unlawful for any director, officer, agent, or  
13 employee of any corporation to use or to conspire to use the  
14 credit, the funds, or the power of the corporation to fix or control  
15 the price of any commodities, and any ~~such~~ person violating this  
16 section shall be ~~liable to~~ *punished by* a fine of not less than two  
17 thousand dollars (\$2,000) ~~and not exceeding nor more than ten~~  
18 ~~thousand dollars (\$10,000) or by imprisonment not less than one~~  
19 ~~year and not exceeding five years in the state prison, or by both~~  
20 *that fine and imprisonment*, in the discretion of the court.

21 SEC. 3. Section 17419 of the Financial Code is amended to  
22 read:

23 17419. On and after January 1, 1992, any person seeking  
24 employment with an escrow agent shall complete an employment  
25 application on or before the first day of employment which  
26 includes, at least, the following information. A copy of the  
27 employment application shall be forwarded to the commissioner  
28 on or before the first day of the applicant's employment. Persons  
29 required to file a statement of identity and questionnaire pursuant  
30 to subdivision (f) of Section 17209 or Section 17212.1 are not  
31 required to file the employment application set forth in this  
32 section. Each person completing the employment application

shall be given the notice required by the Information Practices Act (Section 1798.17 of the Civil Code), copies of which may be obtained from the commissioner. Nothing in this section shall limit an escrow agent from requesting additional information from an applicant.

STATEMENT OF IDENTITY  
AND EMPLOYMENT APPLICATION

Name of Escrow Company: \_\_\_\_\_

Escrow Agent License Number: \_\_\_\_\_

1. Exact Full Name:

\_\_\_\_\_

(Please Print or Type) First Name Middle Name Last Name

(Do not use initials or nicknames)

Title of position to be filled in connection with the preparation of this employment application.

\_\_\_\_\_

2. Employment for the last 10 years:

From	To	Employer Name and Address	Occupation and Duties
	Present		

NOTE: Attach separate schedule if space is not adequate.

3. Residence addresses for the last 10 years:

From	To	Street	City	State
	Present			

NOTE: Attach separate schedule if space is not adequate.

4. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment?

( ) Yes ( ) No

If the answer is "Yes", please complete the following:

Date of Suit: \_\_\_\_\_

Location of Court (City, County, State): \_\_\_\_\_

Nature of Suit: \_\_\_\_\_

Note: Attach a certified copy of any order, judgment, or decree.

5. Have you ever been refused a license to engage in any business in this state or any other state, or has any such license ever been suspended or revoked?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:

State: \_\_\_\_\_ Title of State Department: \_\_\_\_\_

Nature of License and Number: \_\_\_\_\_

Note: Attach a certified copy of any order, judgment, or decree.

6. Have you ever been convicted of or pleaded nolo contendere to a crime other than minor traffic citations that do not constitute a misdemeanor or felony offense?

NOTE: "Convicted" includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or a forfeiture of bail. All convictions must be disclosed even if the plea or verdict was thereafter set aside and the charges against you dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code.

( ) Yes ( ) No

If the answer is "Yes" please complete the following:

Date of Case: \_\_\_\_\_

Location of Court (City, County, State): \_\_\_\_\_

Nature of Case: \_\_\_\_\_

1 Note: Attach a certified copy of any order, judgment, or decree.

2  
3 7. Have you ever been a defendant in a civil court action other than divorce,  
4 condemnation or personal injury?

5  
6 ☐ Yes ☐ No

7 If the answer is "Yes" please complete the following:

8 Date of Suit: \_\_\_\_\_

9 Location of Court (City, County, State): \_\_\_\_\_

10 Nature of Suit: \_\_\_\_\_

11 Note: Attach a certified copy of any order, judgment, or decree.

12  
13 8. Have you ever changed your name or ever been known by any name other  
14 than that herein listed?

15 **(Including a woman's maiden name)**

16  
17 ☐ Yes ☐ No

18 If so, explain. Change in name through marriage or court order should  
19 also be listed.

20 **EXACT DATE OF EACH NAME CHANGE MUST BE LISTED.**

21 \_\_\_\_\_  
22 \_\_\_\_\_

23  
24 9. Have you ever done business under a fictitious firm name either as an  
25 individual or in the partnership or corporate form?

26  
27 ☐ Yes ☐ No

28 If the answer is "Yes" set forth particulars:

29 \_\_\_\_\_  
30 \_\_\_\_\_

31  
32 10. Have you ever been a subject of a bankruptcy or a petition in  
33 bankruptcy?

34  
35 ☐ Yes ☐ No

36  
37 If the answer is "Yes" give date, title of case, location of bankruptcy  
38 filing:

39 \_\_\_\_\_  
40 \_\_\_\_\_

11. Have you ever been refused a bond, or have you ever had a bond revoked or canceled?

( ) Yes ( ) No

If the answer is "Yes" give details:

12. In what capacity will you be employed? \_\_\_\_\_  
(e.g., Clerk, Escrow Officer, Receptionist, etc.)

13. Do you expect to be a party to, or broker or salesman in connection with escrows conducted by the escrow company which is employing you?

( ) Yes ( ) No

If the answer is "Yes" please explain:

NOTE: Attach separate schedule if space is not adequate.

#### VERIFICATION

I, the undersigned, state that I am the person named in the foregoing Statement of Identity and Employment Application; that I have read and signed said Statement of Identity and Employment Application and know the contents thereof, including all exhibits attached thereto, and that the statements made therein, including any exhibits attached thereto, are true.

Any person who provides false information is guilty of a felony and shall, upon conviction, be fined not more than ten thousand dollars (\$10,000) or imprisoned in the state prison for ~~one year or more~~ *two, three, or four years* or in a county jail for not more than one year, or be punished by both ~~such~~ *that* fine and imprisonment. Any person who knows or should have known of a violation of this section shall immediately report the violation in writing to the commissioner.

I certify/declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at \_\_\_\_\_  
(City)  
\_\_\_\_\_  
(County) (State)  
this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.  
\_\_\_\_\_  
(Signature of Declarant)

SEC. 4. Section 17700 of the Financial Code is amended to read:

17700. Any person who willfully violates any provision of this division, or who willfully violates any rule or order under this division, shall, upon conviction, be fined not more than ten thousand dollars (\$10,000), or imprisoned in the state prison ~~for one year or more~~, or in a county jail for not more than one year, or be punished by both ~~such~~ *that* fine and imprisonment, but no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 17423.

SEC. 5. Section 80174 of the Food and Agricultural Code is amended to read:

80174. A second conviction may be considered as a misdemeanor or a felony. If a misdemeanor, it shall be punishable by a fine of not less than three hundred dollars (\$300), nor more than one thousand dollars (\$1,000), for each violation or by imprisonment ~~in the a county jail not to exceed~~ *for not more than* one year, or *by both that fine and imprisonment*, and each violation constitutes a separate offense. If a felony, it shall be punishable by a fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000), for each violation or by imprisonment in the state prison ~~not to exceed five years~~, or *by both that fine and imprisonment*, and each violation constitutes a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee at any time in the future from the date of conviction.

1 SEC. 6. Section 1368 of the Government Code is amended to  
2 read:

3 1368. Every person who, while taking and subscribing to the  
4 oath or affirmation required by this chapter, states as true any  
5 material matter which he *or she* knows to be false, is guilty of  
6 perjury, and is punishable by imprisonment in the state prison ~~not~~  
7 ~~less than one nor more than fourteen years for two, three, or four~~  
8 ~~years.~~

9 SEC. 7. Section 3108 of the Government Code is amended to  
10 read:

11 3108. Every person who, while taking and subscribing to the  
12 oath or affirmation required by this chapter, states as true any  
13 material matter which he *or she* knows to be false, is guilty of  
14 perjury, and is punishable by imprisonment in the state prison ~~not~~  
15 ~~less than one nor more than 14 years for two, three, or four years.~~

16 SEC. 8. Section 51018.7 of the Government Code is amended  
17 to read:

18 51018.7. (a) Any person who willfully and knowingly  
19 violates any provision of this chapter or a regulation issued  
20 pursuant thereto shall, upon conviction, be subject, for each  
21 offense, to a fine of not more than twenty-five thousand dollars  
22 (\$25,000), imprisonment ~~for a term not to exceed five years in~~  
23 ~~the state prison, or by both that fine and imprisonment.~~

24 (b) Any person who willfully and knowingly defaces,  
25 damages, removes, or destroys any pipeline sign or right-of-way  
26 marker required by federal or state law or regulation shall, upon  
27 conviction, be subject, for each offense, to a fine of not more  
28 than five thousand dollars (\$5,000), imprisonment *in a county*  
29 *jail for a term not to exceed not more than one year, or by both*  
30 *that fine and imprisonment.*

31 SEC. 9. Section 44209 of the Health and Safety Code is  
32 amended to read:

33 44209. Any person who falsifies any test record or report  
34 which has been submitted to any other person, the department, or  
35 the state board pursuant to this chapter is subject to punishment  
36 by a fine of not less than one thousand dollars (\$1,000) or more  
37 than five thousand dollars (\$5,000), by imprisonment ~~for not~~  
38 ~~more than five years in the state prison, or by both the that fine~~  
39 ~~and imprisonment.~~



1 SEC. 10. Section 100895 of the Health and Safety Code is  
2 amended to read:

3 100895. (a) Any person who knowingly does any of the  
4 following acts may, upon conviction, be punished by a fine of not  
5 more than twenty-five thousand dollars (\$25,000) for each day of  
6 violation, ~~or~~ by imprisonment in ~~the~~ *a* county jail not to exceed  
7 one year, or by both ~~the~~ *that* fine and imprisonment:

8 (1) Makes any false statement or representation in any  
9 application, record, report, or other document submitted,  
10 maintained, or used for the purposes of compliance with this  
11 article.

12 (2) Has in his or her possession any record required to be  
13 maintained pursuant to this article that has been altered or  
14 concealed.

15 (3) Destroys, alters, or conceals any record required to be  
16 maintained pursuant to this article.

17 (4) Withholds information regarding an imminent and  
18 substantial danger to the public health or safety when the  
19 information has been requested by the department in writing and  
20 is required to carry out the department's responsibilities pursuant  
21 to this article.

22 (b) If the conviction under subdivision (a) is for a violation  
23 committed after a first conviction of the person under this  
24 section, the person may be punished by imprisonment in the state  
25 prison for ~~up to~~ *16, 20, or 24* months; or in ~~the~~ *a* county jail for  
26 ~~not to exceed more than~~ one year, ~~or~~ by a fine of not less than  
27 two thousand dollars (\$2,000) or more than fifty thousand dollars  
28 (\$50,000) per day of violation, or by both ~~the~~ *that* fine and  
29 imprisonment.

30 (c) An ELAP certified or NELAP accredited laboratory, upon  
31 suspension, revocation, or withdrawal of its ELAP certification  
32 or NELAP accreditation, shall do all of the following:

33 (1) Discontinue use of all catalogs, advertising, business  
34 solicitations, proposals, quotations, or their materials that contain  
35 reference to their past certification or accreditation status.

36 (2) Return its ELAP certificate or its NELAP accreditation to  
37 the department.

38 (3) Cease all testing of samples for regulatory purposes.

39 (d) The penalties cited in subdivisions (a) and (b) shall also  
40 apply to NELAP accredited laboratories.

SEC. 11. Section 116730 of the Health and Safety Code is amended to read:

116730. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) for each day of violation, ~~or~~ by imprisonment in ~~the a~~ county jail not to exceed one year, or by both ~~the that~~ fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record required to be maintained pursuant to this chapter that has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this chapter.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this chapter in response to an imminent and substantial danger.

(5) Violates an order issued by the department pursuant to this chapter that has a substantial probability of presenting an imminent danger to the health of persons.

(6) Operates a public water system without a permit issued by the department pursuant to this chapter.

(b) If the conviction under subdivision (a) is for a violation committed after a first conviction of the person under this section, the person may be punished by imprisonment in the state prison for ~~up to~~ 16, 20, or 24 months; or in ~~the a~~ county jail for not to exceed one year, ~~or~~ by a fine of not less than two thousand dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per day of violation, or by both ~~the that~~ fine and imprisonment.

SEC. 12. Section 227 of the Labor Code is amended to read:

227. Whenever an employer has agreed with any employee to make payments to a health or welfare fund, pension fund or vacation plan, or other ~~such~~ *similar* plan for the benefit of the employees, or a negotiated industrial promotion fund, or has entered into a collective bargaining agreement providing for ~~such~~ *these* payments, it shall be unlawful for such an employer

1 willfully or with intent to defraud to fail to make the payments  
2 required by the terms of ~~any such~~ *that* agreement. A violation of  
3 any provision of this section where the amount the employer  
4 failed to pay into the fund or funds exceeds five hundred dollars  
5 (\$500) shall be punishable by imprisonment in the state prison  
6 ~~for a period of not more than five years~~, or in the county jail for a  
7 period of not more than one year, by a fine of not more than one  
8 thousand dollars (\$1,000), or by both ~~such that~~ imprisonment and  
9 fine. All other violations shall be punishable as a misdemeanor.

10 SEC. 13. Section 145 of the Military and Veterans Code is  
11 amended to read:

12 145. A person who, after publication of the proclamation  
13 authorized by Section 143, joins, participates or takes any part in  
14 a rebellion, insurrection, tumult or riot, or who is party to any  
15 conspiracy or combination to resist by force the execution of the  
16 laws or who resists or aids in resisting the execution of process in  
17 any county or city declared to be in a state of insurrection, or  
18 who aids or attempts the rescue or escape of another from lawful  
19 custody or confinement, or who resists or aids in resisting any  
20 force ordered out by the Governor to quell or suppress an  
21 insurrection, is punishable by a fine of not less than one thousand  
22 dollars (\$1,000), or by imprisonment in the state prison ~~not less~~  
23 ~~than two~~ *for two, three, or four years*, or in a county jail not  
24 exceeding one year, or by both ~~such that~~ fine and imprisonment.

25 SEC. 14. Section 1672 of the Military and Veterans Code is  
26 amended to read:

27 1672. Any person who is guilty of violating Section 1670 or  
28 1671 is punishable as follows:

29 (a) If ~~his the~~ act or failure to act causes the death of any  
30 person, ~~he a person violating this section~~ is punishable by death  
31 or imprisonment in the state prison for life without possibility of  
32 parole. The penalty shall be determined pursuant to the  
33 provisions of Sections 190.3 and 190.4 of the Penal Code. If the  
34 act or failure to act causes great bodily injury to any person, a  
35 person violating this section is punishable by life imprisonment  
36 without possibility of parole.

37 (b) If ~~his the~~ act or failure to act does not cause the death of, or  
38 great bodily injury to, any person, ~~he the person violating this~~  
39 ~~section~~ is punishable by imprisonment in the state prison for ~~not~~  
40 ~~more than 20~~ *two, four, or six years*, ~~or by a fine of not more than~~

1 ten thousand dollars (\$10,000), or *by both that fine and*  
2 *imprisonment*. However, if ~~such~~ a person so acts or so fails to act  
3 with the intent to hinder, delay, or interfere with the preparation  
4 of the United States or of any state for defense or for war, or with  
5 the prosecution of war by the United States, or with the rendering  
6 of assistance by the United States to any other nation in  
7 connection with that nation's defense, ~~the minimum punishment~~  
8 ~~shall be~~ *person is punishable by* imprisonment in the state prison  
9 ~~for not less than one year, and the maximum punishment shall be~~  
10 ~~imprisonment in the state prison for not more than 20~~ *three, five,*  
11 *or seven years, or by a fine of not more than ten thousand dollars*  
12 *(\$10,000), or by both that fine and imprisonment.*

13 SEC. 15. Section 8285 of the Public Utilities Code is  
14 amended to read:

15 8285. Any person or corporation, through its directors,  
16 officers, or agents, which falsely represents a business as a  
17 women, minority, or disabled veteran business enterprise in the  
18 procurement of, or attempt to procure, contracts from an  
19 electrical, gas, or telephone corporation with gross annual  
20 revenues exceeding twenty-five million dollars (\$25,000,000), or  
21 a commission-regulated subsidiary or affiliate subject to this  
22 article, shall be punished by a fine of not more than five thousand  
23 dollars (\$5,000) ~~or~~, by imprisonment in ~~the~~ a county jail for not  
24 ~~to exceed more than~~ one year or in the state prison ~~for not to~~  
25 ~~exceed five years~~, or by both that fine and imprisonment. In the  
26 case of a corporation, the fine or imprisonment, or both, shall be  
27 imposed on every director, officer, or agent responsible for the  
28 false statements.

29 SEC. 16. Section 19542.3 of the Revenue and Taxation Code  
30 is amended to read:

31 19542.3. Any person who willfully divulges or makes known  
32 software, as defined in paragraph (1) of subdivision (d) of  
33 Section 19504.5, to any person in violation of Section 19504.5 is  
34 punishable by imprisonment in ~~the~~ a county jail ~~not to exceed for~~  
35 ~~not more than~~ one year, or in the state prison ~~not to exceed five~~  
36 ~~years~~, at the discretion of the court ~~or~~, by a fine of not more than  
37 five thousand dollars (\$5,000), or by both ~~the fines~~ *that fine* and  
38 imprisonment, at the discretion of the court, together with the  
39 costs of investigation and prosecution.

SEC. 17. Section 43606 of the Revenue and Taxation Code is amended to read:

43606. Every person convicted of a felony for a violation of any of the provisions of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000)~~—or~~ , by imprisonment in *the* state prison ~~for not less than one year nor more than five years~~, or by both ~~such~~ *that* fine and imprisonment.

SEC. 18. Section 45955 of the Revenue and Taxation Code is amended to read:

45955. Every person convicted of a felony for a violation of any provision of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000), by imprisonment in *the* state prison ~~for not less than one year nor more than five years~~, or by both *that fine and imprisonment*.

SEC. 19. Section 46705 of the Revenue and Taxation Code is amended to read:

46705. Every person convicted of a felony for a violation of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000)~~—or~~ , by imprisonment in *the* state prison ~~for not less than one year nor more than five years~~, or *by both that fine and imprisonment in the discretion of the court, together with the cost of investigation and prosecution.*

SEC. 20. Section 13387 of the Water Code is amended to read:

13387. (a) Any person who knowingly or negligently does any of the following is subject to criminal penalties as provided in subdivisions (b), (c), and (d):

(1) Violates Section 13375 or 13376.

(2) Violates any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) Violates any order or prohibition issued pursuant to Section 13243 or 13301, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(4) Violates any requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act (33 U.S.C. Sec.

1 1311, 1312, 1316, 1317, 1318, 1328, 1341, or 1345), as  
2 amended.

3 (5) Introduces into a sewer system or into a publicly owned  
4 treatment works any pollutant or hazardous substances that the  
5 person knew or reasonably should have known could cause  
6 personal injury or property damage.

7 (6) Introduces any pollutant or hazardous substance into a  
8 sewer system or into a publicly owned treatment works, except in  
9 accordance with any applicable pretreatment requirements, which  
10 causes the treatment works to violate waste discharge  
11 requirements.

12 (b) Any person who negligently commits any of the violations  
13 set forth in subdivision (a) shall, upon conviction, be punished by  
14 a fine of not less than five thousand dollars (\$5,000), nor more  
15 than twenty-five thousand dollars (\$25,000), for each day in  
16 which the violation occurs, ~~or~~ by imprisonment for not more than  
17 one year in a county jail, or *by both that fine and imprisonment*.  
18 If a conviction of a person is for a violation committed after a  
19 first conviction of the person under this subdivision, subdivision  
20 (c), or subdivision (d), punishment shall be by a fine of not more  
21 than fifty thousand dollars (\$50,000) for each day in which the  
22 violation occurs, ~~or by imprisonment for not more than two years~~  
23 *in the state prison for 16, 20, or 24 months*, or by both *that fine*  
24 *and imprisonment*.

25 (c) Any person who knowingly commits any of the violations  
26 set forth in subdivision (a) shall, upon conviction, be punished by  
27 a fine of not less than five thousand dollars (\$5,000), nor more  
28 than fifty thousand dollars (\$50,000), for each day in which the  
29 violation occurs, ~~or by imprisonment in the state prison for not~~  
30 ~~more than three years~~, or by both *that fine and imprisonment*. If a  
31 conviction of a person is for a violation committed after a first  
32 conviction of the person under this subdivision or subdivision  
33 (d), punishment shall be by a fine of not more than one hundred  
34 thousand dollars (\$100,000) for each day in which the violation  
35 occurs, ~~or by imprisonment in the state prison for not more than~~  
36 *two, four, or six years*, or by both *that fine and imprisonment*.

37 (d) (1) Any person who knowingly commits any of the  
38 violations set forth in subdivision (a), and who knows at the time  
39 that the person thereby places another person in imminent danger  
40 of death or serious bodily injury, shall, upon conviction, be

1 ~~subject to~~ *punished by* a fine of not more than two hundred fifty  
2 thousand dollars (\$250,000) ~~or~~, imprisonment in the state prison  
3 for ~~not more than~~ 5, 10, or 15 years, or *by both that fine and*  
4 *imprisonment*. A person that is an organization shall, upon  
5 conviction under this subdivision, be subject to a fine of not more  
6 than one million dollars (\$1,000,000). If a conviction of a person  
7 is for a violation committed after a first conviction of the person  
8 under this subdivision, the ~~maximum~~ punishment shall be *by* a  
9 fine of not more than five hundred thousand dollars (\$500,000)  
10 ~~or~~, by imprisonment in the state prison for ~~not more than~~ 10, 20,  
11 *or* 30 years, or *by both that fine and imprisonment*. A person that  
12 is an organization shall, upon conviction for a violation  
13 committed after a first conviction of the person under this  
14 subdivision, be subject to a fine of not more than two million  
15 dollars (\$2,000,000). Any fines imposed pursuant to this  
16 subdivision shall be in addition to any fines imposed pursuant to  
17 subdivision (c).

18 (2) In determining whether a defendant who is an individual  
19 knew that the defendant's conduct placed another person in  
20 imminent danger of death or serious bodily injury, the defendant  
21 is responsible only for actual awareness or actual belief that the  
22 defendant possessed, and knowledge possessed by a person other  
23 than the defendant, but not by the defendant personally, cannot  
24 be attributed to the defendant.

25 (e) Any person who knowingly makes any false statement,  
26 representation, or certification in any record, report, plan, notice  
27 to comply, or other document filed with a regional board or the  
28 state board, or who knowingly falsifies, tampers with, or renders  
29 inaccurate any monitoring device or method required under this  
30 division shall be punished by a fine of not more than twenty-five  
31 thousand dollars (\$25,000), ~~or~~ by imprisonment in the state  
32 prison for ~~not more than two years~~ 16, 20, or 24 months, or by  
33 *both that fine and imprisonment*. If a conviction of a person is for  
34 a violation committed after a first conviction of the person under  
35 this subdivision, punishment shall be by a fine of not more than  
36 twenty-five thousand dollars (\$25,000) per day of violation, ~~or~~ by  
37 imprisonment in the state prison for ~~not more than~~ two, three, or  
38 four years, or *by both that fine and imprisonment*.

1 (f) For purposes of this section, a single operational upset  
2 which leads to simultaneous violations of more than one  
3 pollutant parameter shall be treated as a single violation.

4 (g) For purposes of this section, “organization,” “serious  
5 bodily injury,” “person,” and “hazardous substance” shall have  
6 the same meaning as in Section 309(c) of the Clean Water Act  
7 (33 U.S.C. Sec. 1319(c)), as amended.

8 (h) (1) Subject to paragraph (2), funds collected pursuant to  
9 this section shall be deposited in the State Water Pollution  
10 Cleanup and Abatement Account.

11 (2) (A) Notwithstanding any other provision of law, fines  
12 collected for a violation of a water quality certification in  
13 accordance with paragraph (2) of subdivision (a) or for a  
14 violation of Section 401 of the Clean Water Act (33 U.S.C. Sec.  
15 1341) in accordance with paragraph (4) of subdivision (a) shall  
16 be deposited in the Water Discharge Permit Fund and separately  
17 accounted for in that fund.

18 (B) The funds described in subparagraph (A) shall be  
19 expended by the state board, upon appropriation by the  
20 Legislature, to assist regional boards, and other public agencies  
21 with authority to clean up waste or abate the effects of the waste,  
22 in cleaning up or abating the effects of the waste on waters of the  
23 state, or for the purposes authorized in Section 13443.